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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,024	03/22/2004	Ametrice D. Clark	CRK-101	9969
7590	09/07/2005		EXAMINER	
John R. Benefiel Suite 100 B 280 Daines Street Birmingham, MI 48009			PATEL, MITAL B	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 09/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/806,024

Applicant(s)

CLARK, AMETRICE D.

Examiner

Mital B. Patel

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment/Arguments*

1. Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive.
2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a cap hood which retains the cap when opened) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Hanson (US 6,557,737).
5. **As to claim 1**, Hanson teaches a cover (**See Figs. 2-7**) for an inhalant casing **H** of the type having a cylindrical part with an angled spout at the top thereof with a cap **c**

Art Unit: 3743

on said spout **u**, said covering comprised of a tubular main portion **12, 30, 50** (See Figs. **2-7**) of a stretchable fabric (See Col. 3, lines 22-27; it should be noted that the Examiner considers this disclosure to include a fabric among other materials) open at a lower end and closed at the upper end; a downwardly angled opening extending down from the upper end of said tubular main portion (See Figs. **2-3**); said tubular main portion receiving and substantially enclosing said cylindrical part of said inhalant casing with said spout protruding through said opening (See Fig. **2**); and, a cap hood **18, 32, 52** sized to receive and retain said inhalant spout cap, said cap hood tethered (See Figs. **2-7**) on one side to an upper edge of said opening to be held thereto.

6. As to claim **2**, Hanson teaches a covering wherein said main portion is held wrapped into said tubular shape with a hook and loop securement (See Col. 3, lines **35-40**) along a vertical seam (See Figs. **6-7**).

7. As to claim **3**, Hanson teaches a covering further including a ring strap loop (See Figs. **2-7**) sewn into a bottom edge of said main portion with a ring **20** held on said loop.

8. As to claim **5**, Hanson teaches a covering wherein a carrier strap **20** is looped through one or more holes **19a, 19b, 34a, and 34b** adjacent the bottom edge of said tubular portion.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (US 6,557,737) in view of Van Iderstine (US 6,164,275).

12. **As to claim 4**, Hanson teaches essentially all of the limitations except for a carrier strap looped through said ring. However, Van Iderstine in a cover for an inhalant casing teaches a ring **23** to which may be attached a chain, a ring, a clip, a safety pin, or other attachment means to attach the inhalant cover/carrier to the user (**See Col. 2, lines 36-39 of Van Iderstine**). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a carrier strap as taught by Van Iderstine to the ring of Hanson to allow for attachment of the cover to the user.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 571-272-4802. The examiner can normally be reached on Monday-Friday (11:00-7:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mital B. Patel  
Primary Examiner  
Art Unit 3743